

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

TRACY D. LAMPKIN

Plaintiff,

v.

UNITED PARCEL SERVICE

Defendant,

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) CIVIL ACTION FILE

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) NO: CV 1:06cv538-WKW

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**PLAINTIFF’S BRIEF IN SUPPORT OF ITS MOTION TO AMEND
COMPLAINT**

COMES NOW **TRACY D. LAMPKIN** (hereinafter “Plaintiff”), Plaintiff, by and through her undersigned counsel, and sets for her Motion to Amend the Complaint files against Defendant United Parcel Service (hereinafter “Defendant”) as follows:

Statement of Facts

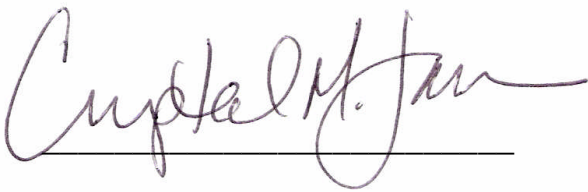
Plaintiff’s initial complaint was filed pro se on or about June 16, 2006. Defendant was has been served and Defendant filed their answer on February 20, 2007. Plaintiff has since this filing date obtained legal counsel and wishes to amend the initial complaint filed on June 16, 2006 pursuant to Fed. Rule Civ. P. 15(a) and seeks leave of the court to file his amended complaint.

Supporting Authority

Once the time period for amending a pleading has lapsed the federal rules at Rule 15 (a) provides for amendment “only by leave of Court or by written consent of the adverse party.” This Court has not entered a Scheduling Order that limited the time to amend the pleadings pursuant to F.R.C.P 16 (b). However even if an scheduling order had been filed modifying said order is within the discretion of the Court upon a showing of “good cause”. Rule 16 (b) sets out the “good cause” standard as primarily considering the diligence of the party seeking the modification. *Sosa v. Airprint Systems, Inc.* 133 F.3d 1417 (11th Cir. 1998). The Plaintiff without the assistance of counsel has diligently sought to pursue this litigation in a timely manner. After filing the initial compliant, the Plaintiff was not able to secure counsel until recently and has not unduly delayed this process although she was unrepresented.

Based upon the issues raised herein the Plaintiff respectfully submits this brief in support of its motion to amend the original complaint and prays that the Court grants said motion allowing the Plaintiff to amend its original complaint.

Respectfully submitted this 7th day of March, 2007

A handwritten signature in dark ink, appearing to read 'Crystal M. James', written over a horizontal line.

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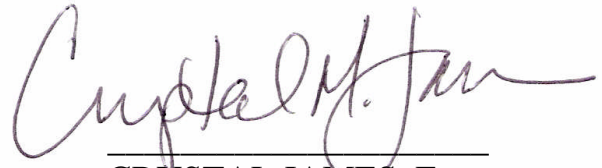
CERTIFICATE OF SERVICE

This is to certify that I have this 7th day of March served the Motion to Amend Compliant and Brief in Support of Motion to Amend Complaint with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record and to the following attorneys of record via U.S. Postal Service at the following addresses:

William J. Baxley
Donald R. James, Jr.
BAXLEY, DILLARD, DAUPHIN, MCKNIGHT & BARCLIFT
2008 Third Avenue South
Birmingham, AL 35233

(Signature on Following Page)

Submitted this 7th Day of March 2007.

A handwritten signature in dark ink, appearing to read "Crystal M. James", written in a cursive style.

CRYSTAL JAMES, Esq.
Attorney for Plaintiff
Georgia Bar # 515292